

104TH CONGRESS  
2D SESSION

# H. R. 3132

To amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1996

Mr. TOWNS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE AND REFERENCES IN ACT.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Medicare Contractor Reform Amendments of 1996”.

6       (b) **REFERENCES IN ACT.**—Except as otherwise ex-  
7       pressly provided, whenever in this Act an amendment or  
8       repeal is expressed in terms of an amendment to, or repeal  
9       of, a section or other provision, the reference shall be con-

1 sidered to be made a section or other provision of the So-  
 2 cial Security Act.

3 **SEC. 2. INCREASED FLEXIBILITY IN CONTRACTING FOR**  
 4 **MEDICARE CLAIMS PROCESSING.**

5 (a) CARRIERS TO INCLUDE ENTITIES THAT ARE  
 6 NOT INSURANCE COMPANIES.—

7 (1) Section 1842(a) (42 U.S.C. 1395u(a)) is  
 8 amended in the matter preceding paragraph (1) by  
 9 striking “with carriers” and inserting “with agencies  
 10 and organizations (hereafter in this section referred  
 11 to as ‘carriers’)”.

12 (2) Section 1842(f) (42 U.S.C. 1395u(f)) is re-  
 13 pealed.

14 (b) CHOICE OF FISCAL INTERMEDIARIES BY PROVID-  
 15 ERS OF SERVICES; SECRETARIAL FLEXIBILITY IN ASSIGN-  
 16 ING FUNCTIONS TO INTERMEDIARIES AND CARRIERS.—

17 (1) Section 1816(a) (42 U.S.C. 1395h(a)) to  
 18 read as follows:

19 “(a)(1) The Secretary may enter into contracts with  
 20 agencies or organizations to perform any or all of the fol-  
 21 lowing functions, or parts of those functions (or, to the  
 22 extent provided in a contract, to secure performance there-  
 23 of by other organizations):

24 “(A) Determination (subject to the provisions  
 25 of section 1878 and to such review by the Secretary

1 as may be provided for by the contracts) the amount  
2 of the payments required pursuant to this part to be  
3 made to providers of services.

4 “(B) Making payments described in subpara-  
5 graph (A).

6 “(C) Provision of consultative services to insti-  
7 tutions or agencies to enable them to establish and  
8 maintain fiscal records necessary for purposes of  
9 this part and otherwise to qualify as providers of  
10 services.

11 “(D) Serving as a center for, and communicate  
12 to individuals entitled to benefits under this part  
13 and to providers of services, any information or in-  
14 structions furnished to the agency or organization by  
15 the Secretary, and serve as a channel of communica-  
16 tion from individuals entitled to benefits under this  
17 part and from providers of services to the Secretary.

18 “(E) Making such audits of the records of pro-  
19 viders of services as may be necessary to ensure that  
20 proper payments are made under this part.

21 “(F) Performance of the functions described  
22 under subsection (d).

23 “(G) Performance of such other functions as  
24 are necessary to carry out the purposes of this part.

1 “(2) As used in this title and title XI, the term ‘fiscal  
2 intermediary’ means an agency or organization with a con-  
3 tract under this section.”.

4 (2) Subsections (d) and (e) of section 1816 (42  
5 U.S.C. 1395h) are amended to read as follows:

6 “(d) Each provider of services shall have a fiscal  
7 intermediary that—

8 “(1) acts as a single point of contact for the  
9 provider of services under this part,

10 “(2) makes its services sufficiently available to  
11 meet the needs of the provider of services, and

12 “(3) is responsible and accountable for arrang-  
13 ing the resolution of issues raised under this part by  
14 the provider of services.

15 “(e)(1)(A) The Secretary shall, at least every 5 years,  
16 permit each provider of services (other than a home health  
17 agency or a hospice program) to choose an agency or orga-  
18 nization (from at least 3 proposed by the Secretary, of  
19 which at least 1 shall have an office in the geographic area  
20 of the provider of services, except as provided by subpara-  
21 graph (B)(ii)(II)) as the fiscal intermediary under sub-  
22 section (d) for that provider of services. If a contract with  
23 that fiscal intermediary is discontinued, the Secretary  
24 shall permit the provider of services to choose under the  
25 same conditions from 3 other agencies or organizations.

1       “(B)(i) The Secretary, in carrying out subparagraph  
2 (A), shall permit a group of hospitals (or a group of an-  
3 other class of providers other than home health agencies  
4 or hospice programs) under common ownership by, or con-  
5 trol of, a particular entity to choose one agency or organi-  
6 zation (from at least 3 proposed by the Secretary) as the  
7 fiscal intermediary under subsection (d) for all the provid-  
8 ers in that group if the conditions specified in clause (ii)  
9 are met.

10       “(ii) The conditions specified in this clause are that—

11               “(I) the group includes all the providers of serv-  
12 ices of that class that are under common ownership  
13 by, or control of, that particular entity, and

14               “(II) all the providers of services in that group  
15 agree that none of the agencies or organizations pro-  
16 posed by the Secretary is required to have an office  
17 in any particular geographic area.

18       “(2) The Secretary, in evaluating the performance of  
19 a fiscal intermediary, shall solicit comments from provid-  
20 ers of services.”.

21               (3)(A) Section 1816(b)(1)(A) (42 U.S.C.  
22 1395h(b)(1)(A)) is amended by striking “after ap-  
23 plying the standards, criteria, and procedures” and  
24 inserting “after evaluating the ability of the agency

1 or organization to fulfill the contract performance  
2 requirements”.

3 (B) The first sentence of section 1816(f)(1) (42  
4 U.S.C. 1395h(f)(1)) is amended—

5 (i) by striking “develop standards, criteria,  
6 and procedures” and inserting “, after public  
7 notice and opportunity for comment, develop  
8 contract performance requirements”, and

9 (ii) by striking “, and the Secretary shall  
10 establish standards and criteria with respect to  
11 the efficient and effective administration of this  
12 part”.

13 (C) The second sentence of section  
14 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is  
15 amended to read as follows: “The Secretary shall,  
16 after public notice and opportunity for comment, de-  
17 velop contract performance requirements for the effi-  
18 cient and effective performance of contract obliga-  
19 tions under this section.”.

20 (D) Section 1842(b)(2)(A) (42 U.S.C.  
21 1395u(b)(2)(A)) is amended by striking the third  
22 sentence.

23 (E) Section 1842(b)(2)(B) (42 U.S.C.  
24 1395u(b)(2)(B)) is amended in the matter preceding  
25 clause (i) by striking “establish standards” and in-

1       serting “develop contract performance require-  
2       ments”.

3               (F)    Section   1842(b)(2)(D)   (42   U.S.C.  
4       1395u(b)(2)(D)) is amended by striking “standards  
5       and criteria” each place is appears and inserting  
6       “contract performance requirements”.

7               (4)(A) Section 1816(b) (42 U.S.C. 1395h(b)) is  
8       amended in the matter preceding paragraph (1) by  
9       striking “an agreement” and inserting “a contract”.

10              (B) Paragraphs (1)(B) and (2)(A) of section  
11       1816(b) (42 U.S.C. 1395h(b)) are each amended by  
12       striking “agreement” and inserting “contract”.

13              (C) The first sentence of section 1816(c)(1) (42  
14       U.S.C. 1395h(c)(1)) is amended by striking “An  
15       agreement” and inserting “A contract”.

16              (D) The last sentence of section 1816(c)(1) (42  
17       U.S.C. 1395h(c)(1)) is amended by striking “an  
18       agreement” and inserting “a contract”.

19              (E)    Section   1816(c)(2)(A)   (42   U.S.C.  
20       1395h(c)(2)(A)) is amended in the matter preceding  
21       clause (i) by striking “agreement” and inserting  
22       “contract”.

23              (F)    Section   1816(c)(3)(A)   (42   U.S.C.  
24       1395h(c)(3)(A)) is amended by striking “agree-  
25       ment” and inserting “contract”.

1 (G) The first sentence of section 1816(f)(1) (42  
2 U.S.C. 1395h(f)(1)) is amended by striking “an  
3 agreement” and inserting “a contract”.

4 (H) Section 1816(h) (42 U.S.C. 1395h(h)) is  
5 amended—

6 (i) by striking “An agreement” and insert-  
7 ing “A contract”, and

8 (ii) by striking “the agreement” each place  
9 it appears and inserting “the contract”.

10 (I) Section 1816(i)(I) (42 U.S.C. 1395h(i)(1))  
11 is amended by striking “an agreement” and insert-  
12 ing “a contract”.

13 (J) Section 1816(j) (42 U.S.C. 1395h(j)) is  
14 amended by striking “An agreement” and inserting  
15 “A contract”.

16 (K) Section 1816(k) (42 U.S.C. 1395h(k)) is  
17 amended by striking “An agreement” and inserting  
18 “A contract”.

19 (L) Section 1842(a) (42 U.S.C. 1395u(a)) is  
20 amended in the matter preceding paragraph (1) is  
21 amended by striking “agreements” and inserting  
22 “contracts”.

23 (M) Section 1842(h)(3)(A) (42 U.S.C.  
24 1395u(h)(3)(A)) is amended by striking “an agree-  
25 ment” and inserting “a contract”.



1           (5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))  
2       is amended by striking the second sentence.

3           (6)(A) Section 1816(c)(2)(A) (42 U.S.C.  
4       1395h(c)(2)(A)) is amended in the matter preceding  
5       clause (i) by inserting “that provides for making  
6       payments under this part” after “this section”.

7           (B) Section 1816(c)(3)(A) (42 U.S.C.  
8       1395h(c)(3)(A)) is amended by inserting “that pro-  
9       vides for making payments under this part” after  
10      “this section”.

11          (C) Section 1816(k) (42 U.S.C. 1395h(k)) is  
12      amended by inserting “(as appropriate)” after “sub-  
13      mit”.

14          (D) Section 1842(a) (42 U.S.C. 1395u(a)) is  
15      amended in the matter preceding paragraph (1) by  
16      striking “some or all of the following functions” and  
17      inserting “any or all of the following functions, or  
18      parts of those functions”.

19          (E) The first sentence of section 1842(b)(2)(C)  
20      (42 U.S.C. 1395u(b)(2)(C)) is amended by insert-  
21      ing “(as appropriate)” after “carriers”.

22          (F) Section 1842(b)(3) (42 U.S.C.  
23      1395u(b)(3)) is amended in the matter preceding  
24      subparagraph (A) by inserting “(as appropriate)”  
25      after “contract”.

1           (G)    Section    1842(b)(7)(A)   (42    U.S.C.  
2    1395u(b)(7)(A)) is amended in the matter preceding  
3    clause (i) by striking “the carrier” and inserting “a  
4    carrier”.

5           (H)    Section    1842(b)(11)(A)   (42    U.S.C.  
6    1395u(b)(11)(A)) is amended in the matter preced-  
7    ing clause (i) by inserting “(as appropriate)” after  
8    “each carrier”.

9           (I) Section 1842(h)(2) (42 U.S.C. 1395u(h)(2))  
10   is amended in the first sentence by inserting “(as  
11   appropriate)” after “shall”.

12          (J)    Section    1842(h)(5)(A)   (42    U.S.C.  
13    1395u(h)(5)(A)) is amended by inserting “(as ap-  
14    propriate)” after “carriers”.

15          (7)(A) Section    1816(c)(2)(C)   (42    U.S.C.  
16    1395h(c)(2)(C)) is amended by striking “hospital,  
17    rural primary care hospital, skilled nursing facility,  
18    home health agency, hospice program, comprehen-  
19    sive outpatient rehabilitation facility, or rehabilita-  
20    tion agency” and inserting “provider of services”.

21          (B) Section 1816(j) (42 U.S.C. 1395h(j)) is  
22    amended in the matter preceding paragraph (1) by  
23    striking “for home health services, extended care  
24    services, or post-hospital extended care services”.

1           (8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3))  
2           is amended by inserting “(to and from individuals  
3           enrolled under this part and to and from physicians  
4           and other entities that furnish items and services)”  
5           after “communication”.

6           (c) ELIMINATION OF SPECIAL PROVISIONS FOR TER-  
7           MINATIONS OF CONTRACTS.—

8           (1) Section 1816(b) (42 U.S.C. 1395h(b)) is  
9           amended in the matter preceding paragraph (1) is  
10          amended by striking “or renew”.

11          (2) The last sentence of section 1816(c)(1) (42  
12          U.S.C. 1395h(c)(1)) is amended by striking “or re-  
13          newing”.

14          (3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))  
15          is amended—

16                (A) by striking “, renew, or terminate”,  
17                and

18                (B) by striking “, whether the Secretary  
19                should assign or reassign a provider of services  
20                to an agency or organization,”.

21          (4) Section 1816(g) (42 U.S.C. 1395h(g)) is re-  
22          pealed.

23          (5) The last sentence of section 1842(b)(2)(A)  
24          (42 U.S.C. 1395u(b)(2)(A)) is amended by striking  
25          “or renewing”.

1           (6) Section 1842(b) (42 U.S.C. 1395u(b)) is  
2       amended by striking paragraph (5).

3       (d) REPEAL OF FISCAL INTERMEDIARY REQUIRE-  
4 MENTS THAT ARE NOT COST-EFFECTIVE.—Section  
5 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read  
6 as follows:

7           “(2) The contract performance requirements  
8       developed under paragraph (1) shall include, with  
9       respect to claims for services furnished under this  
10      part by any provider of services other than a hos-  
11      pital, whether such agency or organization is able to  
12      process 75 percent of reconsiderations within 60  
13      days and 90 percent of reconsiderations within 90  
14      days.”.

15      (e) REPEAL OF COST REIMBURSEMENT REQUIRE-  
16 MENTS.—

17           (1) The first sentence of section 1816(c)(1) (42  
18      U.S.C. 1395h(c)(1)) is amended—

19           (A) by striking the comma after “appro-  
20      priate” and inserting “and”, and

21           (B) by striking “subsection (a)” and all  
22      that follows through the period and inserting  
23      “subsection (a).”.

1           (2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1))  
2           is further amended by striking the second and third  
3           sentences.

4           (3) The first sentence of section 1842(c)(1) (42  
5           U.S.C. 1395u(c)(1)) is amended—

6                   (A) by striking “shall provide” the first  
7                   place it appears and inserting “may provide”,  
8                   and

9                   (B) by striking “this part” and all that fol-  
10                  lows through the period and inserting “this  
11                  part.”.

12           (4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1))  
13           is further amended by striking the second and third  
14           sentences.

15           (5) Section 2326(a) of the Deficit Reduction  
16           Act of 1984 is repealed.

17           (f) COMPETITION REQUIRED FOR NEW CONTRACTS  
18           AND IN CASES OF POOR PERFORMANCE.—

19           (1) Section 1816(c) (42 U.S.C. 1395h(c)) is  
20           amended by adding at the end the following new  
21           paragraph:

22                   “(4)(A) A contract with a fiscal intermediary  
23                   under this section may be renewed from term to  
24                   term without regard to any provision of law requir-  
25                   ing competition if the fiscal intermediary has met or

1 exceeded the performance requirements established  
2 in the current contract.

3 “(B) Functions may be transferred among fis-  
4 cal intermediaries without regard to any provision of  
5 law requiring competition.”.

6 (2) Section 1842(b)(1) (42 U.S.C. 1395u(b)(1))  
7 is amended to read as follows:

8 “(b)(1)(A) A contract with a carrier under subsection  
9 (a) may be renewed from term to term without regard to  
10 any provision of law requiring competition if the carrier  
11 has met or exceeded the performance requirements estab-  
12 lished in the current contract.

13 “(B) Functions may be transferred among carriers  
14 without regard to any provision of law requiring competi-  
15 tion.”.

16 (g) WAIVER OF COMPETITIVE REQUIREMENTS FOR  
17 INITIAL CONTRACTS.—

18 (1) Contracts that have periods that begin dur-  
19 ing the 1-year period that begins on the first day of  
20 the fourth calendar month that begins after the date  
21 of enactment of this Act may be entered into under  
22 section 1816(a) of the Social Security Act (42  
23 U.S.C. 1395h(a)) without regard to any provision of  
24 law requiring competition.

1           (2) The amendments made by subsection (f)  
2       apply to contracts that have periods beginning after  
3       the end of the 1-year period specified in paragraph  
4       (1).

5       (h) EFFECTIVE DATES.—

6           (1) The amendments made by subsection (c)  
7       apply to contracts that have periods ending on, or  
8       after, the end of the third calendar month that be-  
9       gins after the date of enactment of this Act.

10          (2) The amendments made by subsections (a),  
11       (b), (d), and (e) apply to contracts that have periods  
12       beginning after the third calendar month that begins  
13       after the date of enactment of this Act.

○